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TO RUEHC/SECSTATE WASHDC PRIORITY 4572
INFO RUEHBR/AMEMBASSY BRASILIA 5722
RUEHRG/AMCONSUL RECIFE 2720
RUEHRI/AMCONSUL RIO DE JANEIRO 6845
RUEHBU/AMEMBASSY BUENOS AIRES 2050
RUEHAC/AMEMBASSY ASUNCION 2405
RUEHMN/AMEMBASSY MONTEVIDEO 1822
RUEHSG/AMEMBASSY SANTIAGO 1567
RUEHLP/AMEMBASSY LA PAZ 2590
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SUBJECT: LEADER OF THE 1992 CARANDIRU PRISON MASSACRE ACQUITTED OF CRIME

¶1. (SBU) Summary: On February 15, Police Colonel Ubiratan Guimaraes was absolved of responsibility for the infamous 1992 Carandiru prison massacre by a Special Session of the Sao Paulo State Court of Justice. The Court overturned a 2001 grand jury sentence of 632 years in prison for Guimaraes. The massacre, which left 111 prisoners dead, received extensive international attention. The human rights community in Brazil expressed outrage at the decision. End Summary.

BACKGROUND

¶2. (U) The Carandiru massacre is considered one of the most significant human rights violations in modern Brazilian history. In October 1992, prisoners at the Carandiru facility in Sao Paulo, the largest penitentiary in Latin America at the time, staged a rebellion. State military police (uniformed state police), led by Colonel Ubiratan Guimaraes, quelled the riot, leaving over 100 dead. Ballistic examinations indicated that the prisoners were shot at close range, in some cases by machine gun fire to the head and thorax. Ballistic tests indicated that only 26 of the dead were found outside their cells. Survivors of the massacre stated that police killed prisoners even after surrender or while they were attempting to hide in their cells. Investigations also indicated that immediately after the massacre, military policemen altered the crime scene, destroying valuable evidence that could have led to their conviction. Guimaraes claimed that he had followed orders, and that his men had acted in self-defense. At the time, the event received extensive attention from the international community, which expressed outrage at the human rights violation. In 2001, Guimaraes was sentenced to 632 years in prison after the 2nd "Jury Court" in Sao Paulo ruled that he had overstepped his authority. No other government official, prison authority or police officer has been held accountable. The prison was demolished in 2002. In 2003, the incident was featured in the film, "Carandiru."

ANNULMENT

¶3. (U) More than four years after receiving his conviction and sentence, Colonel Guimaraes was absolved of responsibility for the over 100 deaths. On February 15, the justices of the Sao Paulo State Court of Justice voted 20-2 to annul the conviction and sentence and stated that Guimaraes had acted within his duty. The justices overturned the 2001 verdict based on a belief that that

decision, interpreted at the time by Judge Maria Cristina Cotrofe Biasi, did not represent the intent of the 2001 jury. (NOTE: In Brazil, the judge is a member of the jury and its president. The other jury members, who have no legal training, are asked a number of questions formulated by the judge, and, based on the jury's responses, the judge condemns or exonerates the defendant. The judge, therefore, interprets the "will" of the jury. In this case, Guimaraes' lawyer, Vicente Cascione, alleged that the responses of the jury were contradictory because it claimed that Guimaraes acted intentionally in some cases and unintentionally in others. Under the Brazilian legal code, "unintentional" murder may not be judged by a jury. The 2006 trial reinterpreted the jury's responses and acquitted Guimaraes on the basis of the new interpretation. END NOTE) Guimaraes, now a Sao Paulo state legislator, has not served prison time for the massacre. An additional 84 military policemen involved in the 1992 massacre are still awaiting trial in the case.

OUTRAGE AT IMPUNITY

14. (SBU) A number of Brazilian human rights organizations and community leaders expressed outrage at the February 15 high court finding. The NGO Christian Association for the Abolition of Torture and former Human Rights Secretary Nilmario Miranda stated that the decision was a "shame" on Brazil. Sandra Carvalho, of the NGO Global Justice, stated that the decision will give license to summary executions by police. Likewise, Ariel de Castro Alves, of the National Human Rights Movement, reportedly fears that the decision will give "license to immunity" and will set a dangerous precedent. Brazilian NGOs protested in front of the High Court in Sao Paulo on February 20 and will submit a complaint regarding the annulment of the 2001 decision to the Inter-American Commission on Human Rights (IACHR). Federal Deputy Mario Heringer (PDT-MG), a

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member of the Chamber of Deputies' Commission on Human Rights, believes that the high court's decision was "unacceptable" and will reportedly request that the case be passed to the federal authorities for review. Judge Biasi, the original trial judge, is reported to have expressed outrage at the decision: "The decision of the high justices is ...a shame. Shame on the High Court. I am perplexed." Interviewed jury members from the 2001 trial reportedly stated that the sentence rendered by Judge Biasi reflected their will.

15. (U) This cable was coordinated with Embassy Brasilia.

MCMULLEN